

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER REGULATION 13(4) OF SEBI (PROCEDURE FOR HOLDING ENQUIRY BY ENQUIRY OFFICER AND IMPOSING PENALTY) REGULATIONS, 2002, AGAINST SHRI DILIP K. BHANDARI, MEMBER, MPSE.

- 1.0 Shri Dilip K. Bhandari is a member of Madhya Pradesh Stock Exchange (hereinafter referred to as MPSE) and registered with Securities and Exchange Board of India (hereinafter referred to as SEBI) vide registration no. INB 070160710.
- 1.1 An enquiry officer was appointed vide Order dated 18.02.02 for conducting enquiry into the affairs of Shri Dilip K. Bhandari, member of MPSE, vis-a-vis his dealings in the scrip of Eonour Software Ltd (hereinafter referred to as ESL) and possible violation of the provisions of the following :-
- (a) Rules, Bye-laws and Regulations of Madhya Pradesh Stock Exchange.
 - (b) Provisions of the Securities and Exchange Board of India Act, 1992, the Securities and Exchange Board of India (Stock Brokers and sub Brokers) Regulations, 1992.
 - (c) Provisions of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade practices relating to Securities Market) Regulations, 1995.

2.0 Background and investigation by SEBI :

- 2.1 ESL was originally incorporated on May 06, 1992 in the name of Mikugura Software Limited with its registered office located in Indore, Madhya Pradesh. The main object of the company was to develop system software and application software. In January 1996, ESL came out with a public issue of 12,50,000 shares of Rs. 10/- each at a premium of Rs.20/- per share aggregating to Rs. 375 lac. As per the prospectus, the shares of Mikugura Software Ltd. were proposed to be listed at M. P. Stock Exchange (MPSE) and Ahmedabad Stock Exchange (ASE).
- 2.2 ESL was taken over by Shri R. Karthik from its previous promoters in the month of November 1999. Shri R. Karthik in terms of Regulation 10 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 made an open offer to the shareholders of ESL and paid Rs. 33/- per share for the fully paid up shares and Rs. 8.25 per share for the partly paid up shares of ESL. These were evident from the open offer document made in line with the provisions of SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997. The name of Mikugura Software Ltd, following the takeover, was changed to Eonour Software Ltd. The shares of ESL are listed on Ahmedabad Stock Exchange (ASE), Madras Stock Exchange (MSE), The Stock Exchange, Mumbai (BSE) and M. P. Stock Exchange, which is the regional exchange of ESL. Listing of the shares at MSE and BSE was done after the takeover by the new management. After the takeover, the registered office of ESL changed from Indore to Chennai.
- 2.3 The public holding in ESL excluding Other Body Corporates is approximately 6.3 lac shares constituting approximately 21% of the paid up capital of ESL. Further, out of total 1248 shareholders, only 4 shareholders were holding approximately 79% of the equity capital. This shows that the shares of company are in limited hands.
- 2.4 It was observed that 5 shareholders collectively were holding 26,12,700 shares constituting approximately 87% of the paid up share capital of ESL as on February 10, 2000. It was also observed that Shri Karthik R. the main promoter of the company was holding 22,44,200 shares of ESL constituting approximately 75% of the paid up capital of ESL.
- 2.5 A perusal of the trading details from December 01, 1999 to July 31, 2000, shows that no trading was reported at ASE during the said period. However at M. S. E., the scrip was listed on February 28, 2000 and the trading permission was granted on February 29, 2000. The first trade on the exchange was reported on March 06, 2000 at a price of Rs. 419/-. The total quantity traded, during the period under investigation, at the exchange was only 1,500 shares and the highest price it touched at the exchange was Rs. 492/-. The scrip of ESL was not traded at NSE during the period June 2000 to December 2000.
- 2.6 Substantial quantity of shares were traded at Madhya Pradesh Stock Exchange during the period December 01, 1999 to March 14, 2000. After March 14, 2000 no trades were reported at the exchange. Incidentally, it is observed that the scrip was listed on the Stock Exchange, Mumbai, on March 13, 2000. From the price volume details as submitted by MPSE, it is observed that the price of the scrip, which was Rs. 31.50 on December 01, 1999 rose to Rs. 401/- on March 09, 2000. Prior to November 1999, the scrip of ESL was not actively traded and the scrip was considered highly illiquid. In the Madhya Pradesh Stock Exchange, prior to December 1999, the scrip was thinly traded and the price was in the range of Rs. 18/- to Rs. 30/- per share.
- 2.7 At The Stock Exchange, Mumbai the first trade was reported on June 12, 2000 (although listed on March 13,2000) and the price was Rs. 520/- which went up to Rs. 634.75 on July 07, 2000. It was noticed that the clients were connected to each other. It is observed that a total of 2,22,600 shares were traded on the exchange. The maximum quantity traded on the exchange on a particular day during the period was 11,700 shares on June 22, 2000. It was observed that the total purchases/quantity traded during the aforementioned period were 2,22,600 shares.

- 2.8 At M. P. Stock Exchange, a total of 2,47,100 shares were traded during the period December 01, 1999 to March 14, 2000. It was observed that trading in the scrip was concentrated among 7 brokers of the exchange who have traded in the scrip during the period December 1999 to March 2000 and their names alongwith their positions are as under:

Name of Broker	Purchases	%age of Total	Sales	%age of Total	Gross
Mohan Malpani, President, MPSE	65,900	26.67	66,300	26.83	132200
Shaifali Khajanchi	65,600	26.55	65,500	26.50	131100
Ravindra Khajanchi	57,100	23.10	56,800	22.99	113900
Dilip Bhandari	30,100	12.18	30,100	12.18	60200
Vijay Vyas	23,100	9.34	23,100	9.34	46200
Anil G. Bhandari	4,000	1.61	4,000	1.61	8000
Sharad Bhandari*	1,300	0.52	1,300	0.52	2600
Total	2,47,100	100.00	2,47,100	100.00	494200

* Sharad Bhandari has also traded in the scrip prior to December 1999.

- 2.9 It is observed from the trading details collected that all the trading done in the scrip during the aforementioned period has been contributed by the above mentioned brokers only. The scrip price had moved from Rs. 31/- on December 01, 1999 to Rs. 402/- on March 09, 2000. These brokers, without actually taking or giving delivery, have jacked up the price of the scrip at M. P. Stock Exchange. They have also reversed the position amongst themselves and indulged in rampant "Circular Trading" in the scrip so as to register artificial volumes and also to jack up the price of the scrip. The brokers have done the trades in their own account.

3.0 Role of Shri. Dilip K Bhandari :

- 3.1 M/s. Dilip Bhandari is a proprietary member of M. P. Stock Exchange. The member has traded in the scrip of Eonour Software Ltd. mainly in his own account. All of his transactions were square off in nature.
- 3.2 The trading details of the Shri Dilip Bhandari in the scrip are given as under:

Name of Broker	Sett.	Purchases	Sales	Net	Gross
Dilip Bhandari	39	5,500	5,500	0	11,000
	40	12,300	12,300	0	24,600
	41	6,800	6,800	0	13,600
	44	500	500	0	1000
	45	1,000	1,000	0	2000
	46	1,000	1,000	0	2000
	47	1,700	1,700	0	3400
	48	300	300	0	600
	49	500	500	0	1000
	50	500	500	0	1000

- 3.3 Shri Dilip Bhandari was squaring off his positions at the end of each settlement, which was confirmed by him. During the course of investigation / enquiry, Shri Dilip Bhandari was asked to confirm as to whether he had indulged in similar kind of transactions in other scrips as well, to which he stated that volumes in other scrips were almost nil and therefore his trading was restricted to the scrip of Eonour Software Ltd. He also stated that he did jobbing in the scrip of Eonour because there were very few scrip to trade on the exchange.

- 3.4 During the course of enquiry, Shri Dilip Bhandari was asked that the price of the scrip had moved up from Rs. 31/ in December 1999 to Rs. 400/- in March 2000 and why it should not be inferred that he alongwith other members of the MPSE were responsible for creating artificial market and jacking up the price. In reply to this, Shri Dilip Bhandari stated, "During late 1999 and early 2000, there was great software boom and if the price of the scrip was going up, I failed to notice that. I definitely thought that this is one of those software scrips. I never had any intention of jacking up the price of the scrip or do any trading which may appear circular in nature." He was asked to comment on the fact that almost 12% of the exchange volumes in the scrip were contributed by him and why it should not be inferred that he was responsible for registering artificial price/volume in the scrip and also creation of artificial volumes at the exchange. In reply to this, Shri Dilip Bhandari stated that there was hardly any scrip which was traded on the exchange on regular basis and when he got the opportunity, he did jobbing transactions in the scrip and earned approximately Rs. 300/- per settlement.

- 3.5 Shri Dilip Bhandari's trading in the scrip constituted approximately 12% of the trading volume at the exchange and most of his transactions were matching with other brokers who were also trading in the similar manner. It was also noted and confirmed by the member that the profit made by him was always in the range of Rs. 200/- to Rs. 300/- per settlement and the price of the scrip was continuously going up and touched Rs. 400/- in March 2000. This clearly indicate that the transactions were entered into at successive higher prices by Shri Dilip Bhandari alongwith other members of the exchange. The price rise in the scrip was too steep to get unnoticed especially when the members involved were dealing in the scrip without much profit or loss. This should have alarmed the member and he should have stopped dealing in the scrip immediately. It was also observed that in spite of very little profit the member has chosen to deal over a period of time. It is evident that the broker has failed to exercise due skill, care and diligence as regards his dealings in the scrip. It was seen that all the other brokers were squaring off their positions on the same day and they

have also traded in a manner wherein no one has made profit and still managed to jack up the price of the scrip. From the above, it can be concluded that Shri Dilip Bhandari has failed to exercise due skill and care.

4.0 ENQUIRY REPORT AND RECOMMENDATION :

- 4.1 The enquiry officer, after conducting the enquiry as per the prescribed procedure submitted a report dated 08.08.03 and recommended a penalty of suspension of certificate of registration of the broker for a period of four months.

5.0 SHOW-CAUSE NOTICE AND HEARING :

- 5.1 Pursuant to the submission of enquiry report, a show cause notice dated 01.09.03 was issued to the broker along with a copy of the enquiry report. The broker submitted a reply vide letter dated 10.9.03. An opportunity of personal hearing was granted to the broker on 10.10.03. The broker appeared before me and admitted having committed mistakes and pleaded for a lenient view in the matter. The broker vide his letter dated 10.9.03, inter alia, submitted that his intention was not to get any profit from the price rise as he had never taken delivery of a single share nor sold any share in the market at any price and he had never held any shares of the company nor directly or indirectly linked with any one from the company. The broker has also admitted that due to his trading in those shares, the price of the shares has also risen. He further submitted that the trading was done among the few members who were active at that time in the exchange. He also pleaded for a lenient view in the matter.

6.0 CONCLUSIONS

- 6.1 I have carefully considered the material available on record and also the submissions made by the broker vide his letter dated 10.9.2003. My findings are as follows :-
- 6.2 Shri Dilip Bhandari had traded in the scrip on his own account and has not executed trades for any clients. He had executed a total purchases of 30100 shares and sale of 30100 shares from Settlement no.39 to 50 (except 42 & 43) in MPSE. All these transactions were squared off without any delivery of shares.
- 6.3 Shri Dilip Bhandari has submitted that he had transacted mainly for earning jobbing income arising out of price difference. He stated that he did jobbing in the scrip as there were very few scrips to trade on the Exchange. He further submitted that he used to square off the transactions in the same settlement. However, he submitted that he was not aware that trades were being executed by some other brokers in the same scrip. He is stated to have been doing jobbing in other scrips also.
- 6.4 Shri Dilip Bhandari submitted that he has executed the trading in normal course and did not anticipate any consequences which were noticed only after SEBI's investigation in the matter. He has admitted that the transactions did have the effect of price rise and the same is managed by group of jobbers. However, he submitted that he has not created any false market singly or in concert with others.
- 6.5 I find that the submissions of Shri Dilip Bhandari are not convincing. He has traded mainly on his own account in the scrip of ESL alongwith few other brokers of MPSE. The scrip price has moved from Rs.31/- in December 1999 to Rs.400/- in March 2000. Prior to November 1999 the scrip was not actively traded and the scrip was highly illiquid. These brokers without actually taking or giving delivery have artificially raised the volumes and price of the scrip by indulging in circular trading. It is significant to note that all these brokers have executed transactions mainly on their own account.
- 6.6 The scrip has been made liquid by putting artificial volumes and price by few brokers including Shri Dilip Bhandari. These brokers have entered into continuous speculative transactions without any genuine interest in giving or taking delivery of shares. This has resulted in creation of artificial volumes and price rise in the scrip which has otherwise attracted no interest from the general investors.
- 6.7 I find that only few brokers in concert indulged in circular trading i.e. buy and sell transactions with each other, squaring off positions and reversing trades either on the same day or same settlement, making the net receivables and deliverable positions either nil or in negligible quantities and created a false and misleading appearance of trading on the securities market in the scrip of ESL. Since there were very few active brokers in MPSE and the price of the scrip which is illiquid had been rising phenomenally, Shri Bhandari was aware that the price was moving up because of the jobbing done by few brokers including himself and not because of any enthusiasm from the general investors. Therefore, he should have stopped doing jobbing in the said scrip immediately.
- 6.8 In view of my conclusions mentioned hereinabove, I find that Shri Dilip Bhandari has, therefore, failed to exercise due skill and care and violated Clause A(1) to (4) of the Code of Conduct prescribed for stock brokers, in Schedule II in terms of Regulation 7 of Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Regulations, 1992. The said clauses A(1) to (4) reads as follows :

A(1) A stock broker, shall maintain high standards of integrity, promptitude, and fairness in the conduct of all his business.

A(2) A stock broker shall act with due skill, care and diligence in the conduct of all his business.

A(3) A stock broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.

A(4) A stock broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stock broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.

7.0 Shri Bhandari has also indulged in acts calculated to create a false and misleading appearance of trading in the scrip of ESL and entered into purchases and sale of securities not intended to effect transfer of beneficial ownership but to inflate the price of the scrip. These acts are in violation of Regulation 4(b) and 4(d) of Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. Regulations 4(b) and 4(d) read as follows :-

"4. No person shall -

(b) *indulge in any act, which is calculated to create a false or misleading appearance of trading on the securities market.*

(d) *enter into a purchase or sale of any securities, not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the market price of securities."*

7.1 Regulation 7 of the said Regulations provides that the stock broker holding the certificate shall at all times abide by the Code of Conduct as specified in Schedule II. Further, Clause A (5) of Schedule II provides that a stock broker shall abide by all the provisions of the Act and the Rules, Regulations issued by the Government, the Board and the Stock Exchange from time to time as may be applicable to him. In view of the conclusions mentioned hereinabove, I conclude that the said broker is guilty of having violated,

(a) the provisions of clauses A(1) to A(4) of the Code of Conduct as specified in Schedule II read with Regulation 7 of SEBI (Stock Brokers and Sub-brokers) Regulations, 1992,

(b) the provisions of Regulation 4(b) &(d) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995.

In view of the above, I am of the opinion that he said broker is liable for action under regulation 13(1)(b) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002.

7.2 Under section 11 of the SEBI Act, SEBI can take measures to protect the interests of investors and to regulate the securities market inter alia by registering and regulating the working of stock brokers. The Code of Conduct specified in Schedule II of the said Regulations also provides for the minimum standards for the working of the stock brokers. If the regulatory requirements are violated by the stock brokers without attracting any action, the measures taken by SEBI for regulation of the stock brokers would be rendered nugatory and the regulatory function would be jeopardized. It is to be noted that indulgence of the said broker in the transactions which are prohibited can not be allowed especially when such transactions are likely to have a detrimental effect on regulation of the securities market.

8.0 ORDER :

8.1 I find that the said broker has committed violations as observed above and has not exercised due care and diligence in the observance and compliance of the statutory requirements pertaining to the conduct of his business as a stock broker. Looking to the aforesaid violations committed by the said broker, I am convinced that, in the interests of the securities market and in order to safeguard its integrity, penal action is warranted. I am satisfied that a penalty of suspension of certificate of registration for a period of four months would be adequate and would meet the ends of justice.

Therefore, in exercise of the powers conferred upon me by virtue of section 19 of the Securities and Exchange Board of India Act, 1992 read with regulations 13 (4) and 13 (6) of SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 I hereby order that the certificate of registration no. INB 070160710 of Shri Dilip K. Bhandari, a member of the Madhya Pradesh Stock Exchange be suspended for a period of four months.

This order shall come into force on the expiry of three weeks from the date of this order.

A.K BATRA

MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

DATE : 29.10.03

PLACE : Mumbai

